

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

LATRELL ADAMS

PLAINTIFF

VS.

CIVIL ACTION NO. 5:08-cv-154(DCB)(MTP)

JACQUELINE BANKS, ET AL.

DEFENDANTS

ORDER

This cause is before the Court on the petitioner's motion to dismiss appeal (**docket entry 228**). On November 10, 2009, the plaintiff filed a notice of appeal (docket entry 216) from this Court's Order of October 22, 2009 (docket entry 209). By Order dated December 14, 2009, the Court ordered Adams to file a completed application for leave to proceed in forma pauperis. On February 8, 2010, the plaintiff filed the present motion to dismiss his appeal, in which he concedes that the deadline for filing his motion to proceed in forma pauperis has passed, and states that he wishes to have his appeal dismissed so that he may proceed to trial. In closing, he expresses his intention that "this appeal and all other appeals concerning 5:08-cv-158 be dismissed at this time."

A district court is without authority to dismiss a notice of appeal to the circuit court of appeals. Dickerson v. McClellan, 37 F.3d 251, 252 (6th Cir. 1994); Sperow v. Melvin, 153 F.3d 780, 781 (7th Cir. 1998). However, on February 8, 2010, Adams also filed a motion to dismiss his appeal with the Fifth Circuit Court of

Appeals. On February 25, 2010, a Judgment was filed with this Court (docket entry 234) reflecting that the Fifth Circuit Court of Appeals dismissed Adams's appeal pursuant to his motion of February 8, 2010. The motion to dismiss appeal before this Court is therefore moot. Accordingly,

IT IS HEREBY ORDERED that the petitioner's motion to dismiss appeal (**docket entry 228**) is MOOT.

SO ORDERED, this the 13th day of April, 2010.

/s/ David Bramlette
UNITED STATES DISTRICT JUDGE